

Adopted	Rejected
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## COMMITTEE REPORT

YES: 19

NO: 2

### MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred Senate Bill 213, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1        Replace the effective dates in SECTIONS 1 through 2 with
- 2        "[EFFECTIVE JULY 1, 2005]".
- 3        Page 1, between the enacting clause and line 1, begin a new
- 4        paragraph and insert:
- 5        "SECTION 1. IC 6-2.5-1-28 IS ADDED TO THE INDIANA
- 6        CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 7        [EFFECTIVE JULY 1, 2005]: **Sec. 28. "Tobacco" means cigarettes,**
- 8        **cigars, chewing or pipe tobacco, or any other item that contains**
- 9        **tobacco.**
- 10       SECTION 2. IC 6-2.5-5-20 IS AMENDED TO READ AS
- 11       FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) Sales of food
- 12       and food ingredients for human consumption are exempt from the state
- 13       gross retail tax.
- 14       (b) For purposes of this section, the term "food and food ingredients
- 15       for human consumption" includes the following items if sold without

1 eating utensils provided by the seller:

2 (1) Food sold by a seller whose proper primary NAICS  
3 classification is manufacturing in sector 311, except subsector  
4 3118 (bakeries).

5 (2) Food sold in an unheated state by weight or volume as a single  
6 item.

7 (3) Bakery items, including bread, rolls, buns, biscuits, bagels,  
8 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts,  
9 muffins, bars, cookies, and tortillas.

10 (c) Except as otherwise provided by subsection (b), for purposes of  
11 this section, the term "food and food ingredients for human  
12 consumption" does not include:

13 (1) candy;

14 (2) alcoholic beverages;

15 (3) soft drinks;

16 (4) food sold through a vending machine;

17 (5) food sold in a heated state or heated by the seller;

18 (6) two (2) or more food ingredients mixed or combined by the  
19 seller for sale as a single item (other than food that is only cut,  
20 repackaged, or pasteurized by the seller, and eggs, fish, meat,  
21 poultry, and foods containing these raw animal foods requiring  
22 cooking by the consumer as recommended by the federal Food  
23 and Drug Administration in chapter 3, subpart 3-401.11 of its  
24 Food Code so as to prevent food borne illnesses); ~~or~~

25 (7) food sold with eating utensils provided by the seller, including  
26 plates, knives, forks, spoons, glasses, cups, napkins, or straws (for  
27 purposes of this subdivision, a plate does not include a container  
28 or packaging used to transport the food); **or**

29 **(8) tobacco."**

30 Page 1, line 3, delete ""recreational vehicle"" and insert **""cargo**  
31 **trailer" means a vehicle:**

32 **(1) without motive power;**

33 **(2) designed for carrying property; and**

34 **(3) designed for being drawn by a motor vehicle.**

35 **The term includes pole trailers, boat trailers, utility trailers,**  
36 **semitrailers (as defined in IC 9-13-2-164(a)), and two (2) wheeled**  
37 **homemade trailers."**

38 Page 1, line 4, before "means" begin a new paragraph and insert:

- 1       **"(b) As used in this section, "recreational vehicle"."**
- 2       Page 1, line 9, delete "(b)" and insert **"(c)"**.
- 3       Page 1, line 9, after "involving" insert **"a cargo trailer,"**.
- 4       Page 1, line 9, after "vehicle" insert **", "**.
- 5       Page 1, line 12, after "the" insert **"cargo trailer,"**.
- 6       Page 1, line 12, after "vehicle" insert **", "**.
- 7       Page 1, line 15, after "the" insert **"cargo trailer,"**.
- 8       Page 1, line 15, after "vehicle" insert **", "**.
- 9       Page 1, line 17, after "the" insert **"cargo trailer,"**.
- 10      Page 1, line 17, after "vehicle" insert **", "**.
- 11      Page 2, line 2, after "for" insert **"a cargo trailer or"**.
- 12      Page 2, line 3, delete "(c)." and insert **"(d)."** .
- 13      Page 2, line 4, delete "(c)" and insert **"(d)"**.
- 14      Page 2, line 4, after "for" insert **"a cargo trailer or"**.
- 15      Page 2, line 7, after "the" insert **"cargo trailer or"**.
- 16      Page 2, line 11, after "the" insert **"cargo trailer or"**.
- 17      Page 2, line 14, after "the" insert **"cargo trailer or"**.
- 18      Page 2, delete lines 15 through 19.
- 19      Page 2, line 20, delete "(d)" and insert **"(e)"**.
- 20      Page 2, line 23, delete "(e)" and insert **"(f)"**.
- 21      Page 2, line 26, after "the" insert **"cargo trailer,"**.
- 22      Page 2, line 26, after "vehicle" insert **", "**.
- 23      Page 2, line 29, after "the" insert **"cargo trailer,"**.
- 24      Page 2, line 29, after "vehicle" insert **", "**.
- 25      Page 2, line 32, after "which the" insert **"cargo trailer,"**.
- 26      Page 2, line 32, after "vehicle" insert **", or aircraft"**.
- 27      Page 2, line 35, after "registration of the" insert **"cargo trailer,"**.
- 28      Page 2, line 36, after "vehicle" insert **", or aircraft"**.
- 29      Page 2, line 37, delete "(f)" and insert **"(g)"**.
- 30      Page 2, line 39, after "selling" insert **"cargo trailers or"**.
- 31      Page 2, between lines 39 and 40, begin a new paragraph and insert:
- 32      "SECTION 4. IC 6-2.5-11-10 IS AMENDED TO READ AS
- 33      FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A certified
- 34      service provider is the agent of a seller, with whom the certified service
- 35      provider has contracted, for the collection and remittance of sales and
- 36      use taxes. As the seller's agent, the certified service provider is liable
- 37      for sales and use tax due each member state on all sales transactions it
- 38      processes for the seller except as set out in this section. A seller that

contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider. A seller is subject to audit for transactions not processed by the certified service provider. The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

(b) A person that provides a certified automated system is responsible for the proper functioning of that system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.

(c) A seller that has a proprietary system for determining the amount of tax due on transactions and has signed an agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.

**(d) The department shall allow any monetary allowances that are provided by the member states to sellers or certified service providers in exchange for collecting the sales and use taxes as provided in article VI of the agreement.**

SECTION 5. IC 6-3-2-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 20. (a) As used in this section:**

**(1) "steel framing" refers to steel framing manufactured in the United States; and**

**(2) "qualifying residence" means a single family or two (2) family residence constructed wholly or partially with steel framing.**

**(b) For taxable years beginning after December 31, 2005, a resident individual taxpayer is entitled to a deduction from the taxpayer's adjusted gross income for a particular taxable year if, during that taxable year, the taxpayer acquires title to a qualifying**

1        residence that the taxpayer purchases from the builder of the  
2        qualifying residence.

3        (c) The amount of the deduction under subsection (b) in a  
4        particular taxable year is the lesser of:

5            (1) the part of the purchase price of the qualifying residence  
6            attributable to the cost of materials for the steel framing; or

7            (2) one thousand dollars (\$1,000).

8        (d) To obtain the deduction provided by this section, the  
9        taxpayer must file with the department:

10           (1) proof of the cost of materials for the steel framing; and

11           (2) a list of the persons or businesses that supplied materials  
12           for the steel framing."

13        Page 2, line 41, delete "May 31," and insert "**June 30**,".

14        Renumber all SECTIONS consecutively.

(Reference is to SB 213 as printed February 9, 2005.)

**and when so amended that said bill do pass.**

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Representative Espich